

claim. On the other hand, it was also important to balance this duty against the futility of requiring VA to develop claims where there is no reasonable possibility that the assistance would substantiate the claim. For example, wartime service is a statutory requirement for VA non-service-connected pension benefits. Therefore, if a veteran with only peacetime service sought pension, no level of assistance would help the veteran prove the claim; and if VA were to spend time developing such a claim, some other veteran's claim where assistance would be helpful would be delayed. However we need to ensure that the bar is no longer set so high that veterans with meritorious claims will be turned away without assistance.

H.R. 4864, as amended, does specify certain types and levels of assistance for compensation claims. The majority of VA's new casework is in making these initial disability determinations. If the record could be developed properly the first time the veteran submits an application for benefits, subsequent appeals or claims for rating increases or for service connection for additional conditions would be much more accurate and efficient.

The compromise bill provides that VA shall provide a veteran a medical examination or a medical opinion when such an exam or opinion is necessary to make a decision on the claim. The bill specifies one instance when an exam or opinion is necessary—when there is competent evidence that the veteran has a disability or symptoms that may be related to service, but there is not sufficient evidence to make a decision. This determination may be based upon a lay statement by the veteran on a subject that he or she is competent to speak about. That is, if a veteran comes to VA claiming that she or he has a pain in his leg that may be related to service—and there is no evidence that the veteran, for example,

was awarded a workers compensation claim for a leg disability last month—VA must provide an examination or opinion. The veteran can probably not provide evidence that the pain is due to traumatic arthritis; that would require a doctor's expertise. H.R. 4864 does recognize that there are many other instances when a medical examination or opinion would be appropriate or necessary.

Again, by specifying certain types of assistance for compensation claims, the bill does not limit VA's assistance to those types of claims or to a specific type of assistance. It expressly provides that nothing in the bill prevents the Secretary from rendering whatever assistance is necessary. It also does not undo some of the complementary Court decisions that require the VA to render certain additional types of assistance, such as those required in *McCormick v. Gober*.

Although VA is moving its claims adjudication system toward a team-based, case management system that will result in better service and communication with claimants, I felt that it was critical to include requirements that VA explain to claimants what information and evidence will be needed to prove their claim. VA will also be required to explain what information and evidence it would secure (e.g., medical records, service medical records, etc.) and what information the claimant should submit (e.g., marriage certificate, Social Security number, etc.). Currently, many veterans are asked for information in a piecemeal fashion and don't know what VA is doing to secure other evidence. Better communication will lead to expedited decisionmaking and higher satisfaction in the process.

H.R. 4864, as amended, provides for retroactive applications of the bill's duty to assist provisions, as well as the enhanced notice procedures. Now, claimants that were denied due to the Morton decision will be able to have

their claims readjudicated in accordance with the provisions of this bill and receive VA's full duty to assist. This will also ensure an earlier effective date if their claim is successful.

It is critical that we honor our commitment to veterans and their families. We should not create technicalities and bureaucratic hoops for them to jump through. I am pleased that Congress is able to move this provision and begin the restoration of VA's duty to assist claimants in developing the evidence and information necessary to establish their claims for veterans benefits.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BROWNBACK. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:53 p.m., recessed until Tuesday, September 26, 2000, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 25, 2000:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DONALD L. FIXICO, OF KANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004, VICE ALAN CHARLES KORS, TERM EXPIRED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

PAULETTE H. HOLAHAN, OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2004, VICE MARY S. FURLONG, TERM EXPIRED.

MARILYN GELL MASON, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2003, VICE JOEL DAVID VALDEZ, TERM EXPIRED.

DEPARTMENT OF JUSTICE

JOHN J. WILSON, OF MARYLAND, TO BE ADMINISTRATOR OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, VICE SHELDON C. BILCHIK.